

2012 -- S 2286 SUBSTITUTE A

LC01054/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- LICENSING OF GENETIC
COUNSELORS

Introduced By: Senators Perry, Nesselbush, Sosnowski, Miller, and Pichardo

Date Introduced: February 01, 2012

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 86

4 GENETIC COUNSELORS

5 **5-86-1. Statement of policy.** -- The state of Rhode Island has an interest in regulating
6 the practice of genetic counseling and in licensing genetic counselors in order to protect the
7 public health, safety and welfare.

8 **5-86-2. Definitions.** -- As used in this chapter, the following words, shall, unless the
9 context requires otherwise, have the following meanings:

10 (1) "ABGC" means the American Board of Genetic Counseling, a national agency for
11 certification and recertification of genetic counselors or its successor agency.

12 (2) "ABMG" means American Board of Medical Genetics, a national agency for
13 certification and recertification of genetic counselors, MD and DO geneticists and PhD
14 geneticists or its successor agency.

15 (3) "Department" means the department of health.

16 (4) "Licensed genetic counselor" means a person licensed under this chapter to engage in
17 the practice of genetic counseling.

18 (5) "Practice of genetic counseling" means a communication process, conducted by one

1 or more appropriately trained individuals that may include:

2 (i) Estimating the likelihood of occurrence or recurrence of a birth defect or of any
3 potentially inherited or genetically influenced condition. This assessment may involve:

4 (A) Obtaining and analyzing a complete health history of the person and family;

5 (B) Reviewing pertinent medical records;

6 (C) Evaluating the risks from exposure to possible mutagens or teratogens; and

7 (D) Recommending genetic testing or other evaluations to diagnose a condition or
8 determine the carrier status of one or more family members;

9 (ii) Helping the individual, family, health care provider or public to:

10 (A) Appreciate the medical, psychological and social implications of a disorder,
11 including its features, variability, usual course and management options;

12 (B) Learn how genetic factors contribute to the disorder and affect the chance for
13 recurrence of the condition in other family members;

14 (C) Understand available options for coping with, preventing or reducing the chance of
15 occurrence or recurrence of a condition;

16 (D) Select the most appropriate, accurate and cost-effective methods of diagnosis; and

17 (E) Understand genetic or prenatal tests, coordinate testing for inherited disorders, and
18 interpret complex genetic test results; and

19 (iii) Facilitating an individual's or family's:

20 (A) Exploration of the perception of risk and challenge associated with the disorder;

21 (B) Decision-making regarding testing or medical interventions consistent with their
22 beliefs, goals, needs, resources, culture and ethical or moral views; and

23 (C) Adjustment and adaptation to the condition or their genetic risk by addressing needs
24 for psychological, social and medical support.

25 (6) "Provisional licensed genetic counselor" a person with a provisional license issued
26 under section 5-86-5.

27 **5-86-3. Powers and duties of department regarding licensing of genetic counselors. -**

28 **;** For the purposes of conducting its responsibilities under this chapter, the department shall have
29 the following powers and duties:

30 (1) To engage persons of established reputation and known ability in genetic counseling
31 as consultants to the department; the Rhode Island or New England chapter or affiliate of the
32 National Society of Genetic Counselors, if existing, or their successors or equivalent, is
33 designated as the appropriate body with which the department shall consult for referral of
34 consultants and other assistance to the department.

1 (2) To promulgate regulations and adopt such rules as are necessary to regulate genetic
2 counselors;

3 (3) To receive, review, approve or disapprove applications for licensing, renewal and
4 reinstatement and to issue those licenses;

5 (4) To establish administrative procedures for processing applications for licenses and
6 license renewals and to hire or appoint such agents as are appropriate for processing applications
7 for licenses and license renewals;

8 (5) To retain records of its actions and proceedings in accordance with public records
9 laws;

10 (6) To define, by regulation, the appropriate standards for education and experience
11 necessary to qualify for licensing, including, but not limited to, continuing professional education
12 requirements for licensed genetic counselors and provisional licensed genetic counselors, which
13 shall be consistent with those of the American Board of Genetic Counseling, or its successor, and
14 for the conduct and ethics which shall govern the practice of genetic counseling;

15 (7) To establish standards of supervision for students or persons in training to become
16 qualified to obtain a license in the occupation or profession it represents;

17 (8) To conduct hearings upon charges calling for the discipline of a licensed genetic
18 counselor or for revocation of a license pursuant to section 5-86-7. The department has the power
19 to issue subpoenas and compel the attendance of witnesses and administer oaths to persons giving
20 testimony at hearings. The department shall cause the prosecution of all persons violating this
21 chapter and has the power to incur the necessary expenses for the prosecution;

22 (9) To summarily suspend the license of a licensee who poses an imminent danger to the
23 public, but a hearing shall be afforded to the licensee within seven (7) days of an action by the
24 department to determine whether such summary action is warranted; and

25 (10) To perform such other functions and duties as may be required to carry out this
26 chapter.

27 **5-86-4. Genetic counselors; license applications; fee; proof of age; and educational**
28 **and professional requirements. -- An application for an original license or license renewal shall**
29 **be made on forms approved by the department. The initial fee for application for licensure is one**
30 **hundred and seventy dollars (\$170). Licenses shall be renewed every twenty-four (24) months**
31 **after initial licensure upon payment of a fee of one hundred and seventy dollars (\$170) and in**
32 **compliance with any additional requirements that the department promulgates. An applicant for**
33 **an original license shall furnish satisfactory evidence to the department that:**

34 (1) He or she is at least eighteen (18) years old;

1 (2) Meets educational experience qualifications as follows:

2 (i) Successfully completed a genetic counseling education program approved by the
3 department; provided, however, that the program shall meet the educational standards established
4 by the ABGC or its successor; and provided, further, that the genetic counselor remains certified
5 in accordance with the ABGC or ABMG, or their successors;

6 (ii) Earned a master's degree from a genetic counseling training program that is
7 accredited by the ABGC or an equivalent as determined by the ABGC, or a doctoral degree from
8 a medical genetics training program that is accredited by the ABMG or an equivalent as
9 determined by the ABMG;

10 (iii) Completed such experience as may be required by the department;

11 (3) Passed the examination for certification as:

12 (i) A genetic counselor by the American Board of Genetic Counseling or the American
13 Board of Medical Genetics, or successor or equivalent; or

14 (ii) A medical geneticist by the American Board of Medical Genetics, or successor or
15 equivalent.

16 **5-86-5. Practice as provisional licensed genetic counselor; expiration; extension;**
17 **supervision by professional licensed genetic counselor. -- A person who meets the**
18 **qualifications for licensure except for the requirement in subdivision 5-86-4(3) may practice as a**
19 **provisional licensed genetic counselor upon filing an approved application with the department**
20 **and payment of a fee of eighty-five dollars (\$85.00). Such license shall be valid for one year from**
21 **the date of its issue and may be renewed for an additional one year if an applicant fails the ABGC**
22 **or ABMG certification exam. Such provisional license shall expire automatically upon the**
23 **earliest of the following:**

24 (1) Issuance of a full license;

25 (2) Thirty (30) days after the applicant fails to pass the complete examination on the last
26 permitted attempt as provided by the ABGC or ABMG, or their successors; or

27 (3) The date printed on the temporary license. An application for extension shall be
28 signed by a supervising licensed genetic counselor. A provisional licensed genetic counselor shall
29 be under the general supervision of a licensed genetic counselor or a licensed physician at all
30 times during which the provisional licensed genetic counselor performs clinical genetic
31 counseling. The department shall adopt rules governing such supervision and direction which
32 may not require the immediate physical presence of the supervising licensed genetic counselor.

33 **5-86-6. Practice of genetic counseling by unlicensed persons; exceptions. -- No**
34 **person shall hold oneself out as a genetic counselor unless he or she is licensed in accordance**

1 with this chapter. No person who is not so licensed may use in connection with his or her name or
2 place of business, the title “genetic counselor”, “licensed genetic counselor”, “gene counselor”,
3 “genetic consultant”, “genetic associate” or any words, letters, abbreviations or insignia
4 indicating or implying a person holds a genetic counseling license. Nothing in this section shall
5 be construed to prevent or restrict the practice, service or activities of:

6 (1) Any person licensed, certified, or registered in the state, by any other statute other
7 than as a genetic counselor from engaging in activities within the scope of practice of the
8 profession or occupation for which he or she is licensed provided that he or she does not represent
9 to the public, directly or indirectly, that he or she is licensed under this chapter, and that he or she
10 does not use any name, title or designation indicating that the person is licensed under this
11 chapter;

12 (2) Any person employed as a genetic counselor by the federal government or an agency
13 thereof if such person provides genetic counseling services solely under the direction and control
14 of the organization by which such person is employed;

15 (3) A student or intern enrolled in an approved genetic counseling education program if
16 genetic counseling services performed by the student are an integral part of the student's course of
17 study and are performed under the direct supervision of a licensed genetic counselor assigned to
18 supervise the student and who is on duty and available in the assigned patient care area and if the
19 person is designated by a title which clearly indicates his or her status as a student or intern;

20 (4) An individual trained as a Ph.D. or medical geneticist who is reapplying for the
21 ABMG certification examination and is gathering logbook cases under a supervisor identified in
22 the training program's ABMG accreditation documents as a member of the training faculty; and

23 (5) An out-of-state genetic counselor from working as a consultant, or out-of-state
24 employer or other organization from employing genetic counselors providing occasional services,
25 who are not licensed pursuant to this act, from engaging in the practice of genetic counseling,
26 subject to the stated circumstances and limitations as defined by the department, by regulation, so
27 long as the genetic counselor holds a license, if available, in the genetic counselor's state of
28 employment. If licensure is not available in the genetic counselor's state of employment, the
29 genetic counselor shall be certified by the American Board of Genetic Counseling or the
30 American Board of Medical Genetics, or their successors, in order to practice genetic counseling
31 without a state license in accordance with this subsection.

32 **5-86-7. Grounds for denial; refusal to renew; revocation; suspension or cancellation**
33 **of genetic counselor license. -- The department may deny or refuse to renew a license or, after a**
34 **hearing, revoke, suspend or cancel the license or place on probation, reprimand, censure or**

1 otherwise discipline a licensee upon proof satisfactory to the department that the person has:

2 (1) Obtained or attempted to obtain a license by fraud or deception;

3 (2) Been convicted of one or more of the offenses set forth in section 23-17-37;

4 (3) Been adjudged mentally ill or incompetent by a court of competent jurisdiction;

5 (4) Used illicit drugs or intoxicating liquors to the extent which adversely affects his or
6 her practice;

7 (5) Engaged in unethical or unprofessional conduct including, but not limited to, willful
8 acts, negligence or incompetence in the course of professional practice;

9 (6) Violated any lawful order, rule or regulation rendered or adopted by the department;

10 or

11 (7) Been refused issuance or been disciplined in connection with a license issued by any
12 other state or country.

13 **5-86-8. Counseling concerning abortion.** -- Nothing in this chapter may be construed to
14 require any genetic counselor to participate in counseling with respect to abortion, nor shall
15 licensing of any genetic counselor be contingent upon participation in such counseling with
16 respect to abortion, and the refusal of the genetic counselor to participate in such counseling with
17 respect to abortion shall not form the basis for any claim of damages on account of the refusal or
18 for any disciplinary or recriminatory action against the genetic counselor, provided that the
19 genetic counselor clearly informs the patient, in a manner consistent with ethical standards and
20 subdivision 5-86-7(5), that he or she will not participate in counseling with respect to abortion
21 and offers to give the patient a list of the licensed genetic counselors in the state. The genetic
22 counselor's disclosure of non-participation and offer of a list of other licensed genetic counselors
23 shall be made at the start of the counseling relationship and at other appropriate times, if any,
24 based on the genetic counselor's professional judgment.

25 **5-86-9. Privileged communications.** -- The provisions of section 9-17-24 shall apply to
26 persons licensed pursuant to this chapter.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO BUSINESSES AND PROFESSIONS -- LICENSING OF GENETIC
COUNSELORS

1 This act would provide a statutory framework for the licensing and regulations of genetic
2 counselors. Also, there is nothing in the act that would be construed to require any genetic
3 counselor to participate in counseling with respect to abortion, nor would any licensing of any
4 genetic counselor be contingent on participation of counseling with respect to abortion.

5 This act would take effect upon passage.

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